

RESTORATIVE JUSTICE PROCESSES WITH SEXUAL VIOLENCE CASES

CONSIDERATIONS AND SUGGESTIONS

These considerations and suggestions were developed by a group of sexual violence service providers who are part of the Maine Coalition Against Sexual Assault. They are expected to change over time as we learn more, both through research and experience, about the practices of using restorative justice (RJ) processes with sexual violence cases. These considerations can be utilized to develop restorative justice processes/practices for survivors that might be housed under a restorative justice agency, within a sexual assault support center, or elsewhere in the community. Based on the stage of development of the RJ practices in Maine for these cases at the time of writing, the guidance below urges these programs to start with less complex cases and expand slowly.

Screening/Fit of Services

- We recommend that RJ practitioners do not engage in processes involving a relationship where active abuse is occurring (any type of abuse—financial, sexual, emotional, physical, trafficking, etc.) without an advanced program and in deep partnership with domestic violence (DV) partners to help craft the structure and supporting survivors.
- We recommend that RJ practitioners develop and make available clear informational materials (with corresponding internal policies) about the scope of services provided, including what types of cases the RJ practitioner takes and doesn't.
- RJ practitioners should have a documented DV/abuse screening process, co-created with DV providers, to be administered either by RJ practitioners or Sexual Violence (SV) partners, or ideally collaboratively. Those administering screenings should receive training on the tool and DV.
- RJ practitioners should have documented process for screening for rightness of fit for process in other ways (mental health readiness incl. suicidality and self-harm risk, expectations about outcomes) to be administered by RJ practitioners and/or SV partners.

Safety Planning

- RJ practitioners should have a documented process to engage in safety planning with all survivor participants, both emotional and physical safety, to be administered by SV partners or with other support people, therapists, etc.

Crisis Readiness

- RJ practitioners should have a documented process for responding to participants in crisis, both during a process and pre and post process as well as protocols for debriefing critical incidents.
- RJ practitioners should have received some training on responding to crisis (level of training based on the role outlined for them in the processes).
- We recommend that RJ practitioners consider other support for their staff on crisis responses including clinical support/supervision.

Participation

- We recommend that, for this early stage in development, processes involve voluntary participation only.

Legal Implications and Protections

- RJ practitioners should obtain comprehensive, informed, written consent by participating survivors which includes:
 - Written explanation of ways that a survivor’s information could negatively impact their privacy and their ability to seek future criminal or civil legal justice (we recommend that the standard consent form is co-written or approved by attorneys and SV partners)
 - Opportunities for participants to understand their legal (civil and criminal) rights from lawyers directly; this can include referrals to legal services through an ongoing agreement with PTLA or others
 - Written goals of the RJ process
- Where possible, we recommend that RJ practitioners develop a written agreements with local prosecutors to protect information shared in RJ practices for victims (and possibly also harmers) in criminal cases (similar to a proffer agreement).

Partnership with Sexual Assault Support Centers (SASCs)

- We recommend RJ practitioners have a signed MOU with the SASC in their area outlining agreements for partnership, including:
 - An agreement that all RJ provider clients will be offered a warm referral to SASCs (or DVRCs) where appropriate
 - A clear referral process to the RJ program that outlines who administers screening for program fit and abuse/safety
 - Agreed upon roles for all participants including the role of advocates (with a plan to ensure someone is there to support survivors who isn’t also facilitating)
- We recommend that RJ programs provide written outreach information for SV providers to offer to survivors about RJ process options.

Cases Involving Children

Ideally, RJ processes for SV cases begin by focusing on adult cases as juvenile cases involve many additional complicating factors legally, ethically, and logistically. The following considerations are made for more advanced programs and are not intended to be exhaustive.

- RJ practitioners should engage in preliminary conversations with both Pine Tree Legal and local District Attorney’s Offices about the rights of juvenile harmed individuals and harmers before beginning processes.
- RJ practitioners should establish a minimum age for participation (14 is suggested).
- RJ practitioners should establish clear guidance about what types of cases (what types of power dynamics, abilities, age differences, living arrangements) will be accepted/engaged.
- RJ practitioners should develop (with attorneys) a written list of all the possible criminal and civil legal risks from engaging in RJ processes to be gone over with all participants, including non-offending caregivers, during intake.
- RJ practitioners should obtain informed, written, and signed consent from both the juvenile harmed/harmer *and* their non-offending caregiver about mandated reporting, the criminal and civil legal risks, other possible implications as well as all the steps in the process
- RJ practitioners should have written policies outlining their roles, or the roles of any participating party, as mandated reporters.
- We recommend that RJ practitioners receive training on Children’s Advocacy Centers (CACs) and their role.